

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MARK A YETZ**  
Claimant

**APPEAL NO. 09A-UI-09947-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MORRISON TRUCKING**  
Employer

**OC: 05/17/09**  
**Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Morrison Trucking filed an appeal from a representative's decision dated June 30, 2009, reference 01, which held that no disqualification would be imposed regarding Mark Yetz' separation from employment. After due notice was issued, a hearing was held by telephone on July 28, 2009. Mr. Yetz participated personally. The employer participated by Randal Morrison, Owner.

**ISSUE:**

At issue in this matter is whether Mr. Yetz was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Yetz was employed by Morrison Trucking from March 9 until May 19, 2009 as an over-the-road driver. He became separated from the employment when the employer's insurance carrier declined to continue insuring him. Both the employer and its carrier were aware of Mr. Yetz' driving record at the time of hire.

Mr. Yetz did not have any traffic violations, either in the employer's vehicle or his personal vehicle, after the date of hire. The insurance carrier pulled his motor vehicle report while in the process of renewing the employer's policy. It was determined that Mr. Yetz would not be covered because he had six moving violations over a period of three years. As such, the employer could no longer allow him to continue driving. The lack of insurability was the sole reason for the separation.

**REASONING AND CONCLUSIONS OF LAW:**

The employer initiated Mr. Yetz' separation as he could no longer work for the company after the insurance company declined to cover him. Because the employer initiated the separation, it is considered a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section

96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The misconduct must be in connection with the individual's employment.

As a general rule, an individual is guilty of misconduct if his own conduct renders him unemployable by his employer. See Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980). In the case at hand, it was Mr. Yetz' driving record that made him unemployable by Morrison Trucking. However, none of the traffic violations that made him unemployable occurred during a time he was employed by Morrison Trucking. The employer and its insurance carrier were aware of his driving record at the time of hire and, therefore, there is no issue of him misrepresenting his record. For the above reasons, it is concluded that Mr. Yetz did not, while working for Morrison Trucking, engage in any conduct that caused him to be discharged.

After considering all of the evidence, it is concluded that the employer has failed to establish that Mr. Yetz engaged in misconduct in connection with his employment. The administrative law judge appreciates that the employer had no choice but to release him. However, the fact remains that the separation was not caused by any misconduct on Mr. Yetz' part. As such, no disqualification is imposed.

**DECISION:**

The representative's decision dated June 30, 2009, reference 01, is hereby affirmed. Mr. Yetz was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs